

Meeting of 2002-9-10 Regular Meeting

MINUTES

LAWTON CITY COUNCIL REGULAR MEETING
SEPTEMBER 10, 2002 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, City Manager
 John Vincent, City Attorney
 Brenda Smith, City Clerk
 Col. Steuber, Fort Sill Liaison

The meeting was called to order at 6:00 p.m. by Mayor Powell. Invocation was given by Rev. Eddie Coast, Trinity Baptist Church, followed by the Pledge of Allegiance. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

ROLL CALL

PRESENT: James Hanna, Ward Two
 Glenn Devine, Ward Three
Amy Ewing-Holmstrom, Ward Four
 Robert Shanklin, Ward Five
 Barbara Moeller, Ward Six
 Stanley Haywood, Ward Seven
 Michael Baxter, Ward Eight

ABSENT: Randy Bass, Ward One

PRESENTATION OF CITIZEN OF THE MONTH AWARD TO DR. ROSE LEPIEN

Beverly Wooley, Mayor's Commission on the Status of Women, introduced Dr. Rose Lepien, owner and director of the Aaragon Chiropractic Clinic, as Citizen of the Month. Dr. Lepien is an active member of the First Assembly of God Church, President of the Lawton-Gullesheim Sister City Group and represented Lawton in May to celebrate its 20th anniversary. She is a long-time member of the Lawton Business and Professional Women's Club and has been club president for two years. Dr. Lepien has been a Red Coat for the Chamber of Commerce since the mid-1980's, and is active in Mt. Scott Kiwanis, Mountain Metro Ambucs, and is the newspaper editor for the German American Club. She is on the board of directors for BancFirst, the Salvation Army, and the board of trustees for Parker College of Chiropractors in Dallas.

Dr. Lepien speaks often about health issues and has spoken to the Chiropractic Convention, the Oklahoma State BPW Board and to many local organizations. She gives her time, energy and ideas on ways to help raise money for scholarships. She is on the Oklahoma BPW Foundation Committee for scholarship selection and is also the State Young Careerists Chairman. This committee helps young people develop public speaking skills. Dr. Rose also gives free school physicals for low income students. She has patient appreciation days at Aaragon Chiropractic Clinic where she and her staff donate the money they make that day to a worthwhile, non-profit organization.

Mayor Powell thanked Dr. Lepien for representing Lawton during the recent Sister City visit and noted receipt of a letter of condolence from the Mayor of Gullesheim, Germany, concerning the passing of Betty Bochantin. Awards were presented by Mayor Powell from Congressman J.C. Watts, the Oklahoma State House of Representatives, the Oklahoma State Senate, and the City of Lawton Office of the Mayor.

Dr. Lepien said it is an honor to receive the award and she thanked the Mayor's Commission on the Status of Women and Mayor Powell for the presentations. She said she was raised in Germany and came here 30 years ago with her late husband and their small baby to start their practice. She said she was privileged to be part of this community and will give it her best.

READING OF PROCLAMATIONS

Mayor Powell read the following Proclamations: September declared as Prostate Cancer Awareness Month; the week of September 23 declared as Racial Equality and Justice Week as designated by the National League of Cities;

and the week of September 17-23 declared as United States Constitution Week.

PRESENTATION OF REPORT BY MUSEUM OF THE GREAT PLAINS

John Hernandez, Museum Director, reported that the Museum received accreditation in May by the United States Association of Museums, and only 750 museums in the nation have received accreditation and only ten in Oklahoma. In September the Museum will receive a commendation from the American Society of State and Local History for the exhibit "Lawton, Child of the Prairie" which was done in conjunction with the Centennial Celebration of Lawton's Birthday. Visitation at the Museum has risen; 78% were from outside of Lawton, 60% were from outside of Oklahoma and 2% were from outside the United States. Plans are being made to offer another "Free Sunday" to encourage an increase in visitation. Hernandez issues a public invitation to the unveiling of the sculpture on October 27 at 2 p.m. between the Museum and the Auditorium; the sculpture was commissioned by the McMahon Foundation.

Hernandez said he hoped they were not strangers to the Council and invited them to visit the Museum at any time and he offered to arrange special tours. He expressed appreciation for the Council's support and presented Lawton Centennial coins to the members.

AUDIENCE PARTICIPATION:

Anthony Fair, 2622 NE Euclid, said that he and others were present on behalf of the youth who supported the skate park to express gratitude for its completion. He said they were allowed to actively participate in the design and they would do their best to take care of it. Mayor Powell said the skate park was opened last Saturday and he hoped it would be used and enjoyed.

CONSENT AGENDA : Devine asked for separate consideration of Item 1.

MOVED by Shanklin, SECOND by Hanna, to approve the Consent Agenda items as recommended with the exception of Item One. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for denial: Donald and Sue Hodge. Exhibits: Legal Opinion/Recommendation.

Devine said the claim involved Mr. Hodge calling for a locate for a sewer tap for a duplex, tapping the main after having called the City and receiving the appropriate inspection. After it was covered for a few days or weeks, the sewage began backing up in the units because the line had been tied to an abandoned sewer main so Hodge had to dig it up again and tie it to a working City main. Devine said the line should have been removed or something so it would not be accidentally tied in to. He said this caused an expense to Mr. Hodge and he felt the City should pay the claim under those circumstances.

MOVED by Devine, SECOND by Shanklin, to approve the claim and adopt a resolution to pay in the amount of \$1,550.00.

Vincent said their report states what they believe the law to be and it is up to the Council if they believe the City was negligent in failing to do the items indicated by Mr. Devine, then the Council can certainly pay the claim. Ewing-Holmstrom asked if this had happened before as far as abandoned lines. Vincent said he knew of one other incident but there are abandoned lines all over the City and they are not removed when they are abandoned due to the expense. Devine said they take them out now due to the sewer rehab and the processes used in that program. Devine said he had been trying to get an item budgeted where no one would tap the City mains but City crews, and this may not have happened if that would have been done.

Shanklin said he and Devine went to the site when this occurred; the man had the permit to get into the alley, he got the wrong line and did not think it was due to his negligence. He said people have cut into alleys without permits and back filled them with mud, rather than gravel, and suggested a penalty be enforced in such cases. Shanklin suggested the sanitation foremen turn in alleys where the packer trucks leave ruts and holes so the proper people can find out where and why the alley was disturbed and get the people who did it to put it back like it should be. Baker said staff would look into doing so. Baker said he could recall only two or three times in the last 20 years when an abandoned main had been tapped.

VOTE ON MOTION: AYE: Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter, Hanna. NAY: None. MOTION CARRIED.

(Title) Resolution No. 02-160

A resolution authorizing and directing the City Attorney to assist Donald and Sue Hodge in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of One Thousand Five Hundred and Fifty Dollars and no/100 (\$1,550.00).

2. Consider the following damage claims recommended for approval and consider passage of any resolution authorizing the City Attorney to file a friendly suit for the claim which is over \$400.00: Southwestern Bell Telephone; Brandie, Jonathan and April Morris; Robert L. Jones; and Randel Coleman. Exhibits: Legal Opinion/Recommendation. (Four resolutions on file)

(Title) Resolution No. 02-161

A resolution authorizing and directing the City Attorney to assist Southwestern Bell Telephone Company in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of One Thousand Six Hundred Fifty Four Dollars and 89/100 (\$1,654.89).

(Title) Resolution No. 02-162

A resolution authorizing and directing the City Attorney to assist Brandie, Jonathan B. and April C. Morris in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of One Thousand Three Hundred Sixty Nine Dollars and 66/100 (\$1,369.66).

(Title) Resolution No. 02-163

A resolution authorizing and directing the City Attorney to assist Robert L. Jones III in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the amount of Ten Thousand Nine Hundred Forty Three Dollars and 00/100 (\$10,943.00).

(Title) Resolution No. 02-164

A resolution authorizing and directing the City Attorney to assist Randel Coleman in filing a friendly suit in the District Court of Comanche County, Oklahoma, against the City of Lawton; and authorizing the City Attorney to confess judgment therein in the reduced amount of Four Thousand Eight Hundred Nine Dollars and 00/100 (\$4,809.00).

3. Consider accepting a utility easement that is located between Block 31 and Block 32 of the Original Townsite from the Board of Education of Independent School District No. 8. Action: Accept easement as shown.

4. Consider approving the record plat for Bridwell Development and accepting the improvements, and maintenance bonds. Exhibits: Map; CPC Minutes. Action: Approve record plat and accept the improvements and maintenance bonds. This development is located mile west of SW 67th Street on the south side of Lee Boulevard and contains 21 lots; zoned C-5.

5. Consider awarding a construction contract to Bowen Construction, Inc. for the Lake Ellsworth Gate Operator Repair Project #2001-7. Exhibits: None. Action: Award contract as shown in the amount of \$39,400.00.

6. Consider accepting SW Crystal Hills Drive & 75th Street Reconstruction Project #2001-8 as constructed by T & G Construction, Inc. and placing the maintenance bond into effect. Exhibits: None. Action: Accept the project and place the maintenance bond into effect.

7. Consider accepting the McMahon Auditorium Re-roofing Project #2001-9 as constructed by Chickasha Roofing Co., Inc. and placing the maintenance bond into effect. Action: Accept the project and place the maintenance bond into effect.

8. Consider rejecting bid proposals for the Ahlschlager Park Restroom Project #2002-11 and authorizing staff to construct the project on a force account basis. Exhibits: None. Action: Reject bid proposals and authorize staff to construct the project on a force account basis.

9. Consider approving contract with Theatreworks USA for school performance of The Lion, the Witch and the Wardrobe for October 24, 2002, and authorize the Mayor and City Clerk to execute the agreements. Exhibits: None. Action: Approve the contract.

10. Consider renewing the agreement between the Board of County Commissioners of Comanche County and the City of Lawton for library service to Comanche County residents living outside the City of Lawton. Exhibits: Agreement. Action: Renew agreement and authorize execution.

11. Consider approving the following contract extensions: A) Liquid Chlorine with DPC Industries, Inc.; B) Anhydrous Ammonia with Co-op Services, Inc.; C) Bakery Products for City Jail with The Earthgrains Company. Exhibits: None. Action: Approval.

12. Consider awarding property insurance policy renewal to Towe, Hester and Erwin Insurance Agency. Exhibits:

Chubb Insurance Group property insurance proposal. Action: Approval.

13. Consider awarding contract for Police Vehicle Equipment. Exhibits: Recommendation; Abstract. Action: Award to Cruisers Division for overhead light bar, rear view mirror/rear deck lighting, and electronic siren; to Oklahoma Police Supply for four corner strobe lighting, speaker, headlight flasher; to Galls, Inc. for push bumper; and to Complete Emergency Vehicles for flashlight.

14. Consider awarding contract for Redi-Mix Concrete. Exhibits: Recommendation; Abstract. Action: Award to Southwest Ready Mix of Lawton.

15. Consider awarding contract for Copier Contract. Exhibits: Recommendation; Abstract. Action: Award to High Tech Office Systems of Lawton.

16. Consider approval of payroll for the period of September 2 through 15, 2002.

17. Consider approval of Minutes of Lawton City Council Meeting of August 27, 2002.

UNFINISHED BUSINESS:

18. Consider approving a revocable permit for the placement of a storage building in the utility easement located at 1409 NE Independence Avenue. Exhibits: Application; Letter; Site Plan; Map; Permit.

Bob Bigham, Assistant City Planner, said this was tabled previously to allow the applicant to work with AEP-PSO about their letter of opposition. AEP-PSO and Southwestern Bell have responded that they do not object; however, Reliant ARKLA and Cablevision have objected to the placement of this shed on the utility easement. Public Works has indicated that the shed will not prevent the maintenance of the City sewer line but it would be in conflict with the new policy of trying to keep the utility easements clear.

John Evans, 1409 NE Independence Avenue, said he learned by speaking with Cablevision and ARKLA that an agreement had been made within the past month by all utilities to object to any construction on utility easements to insure that future work by any utilities can be done without encountering problems because in the past some people have built as they saw fit within the easements. He said he agreed with and understood that so he requested a revocable permit, rather than a permanent permit, and he would construct the building on skids so it could be moved. The City could revoke the permit at any time to allow utility work and since the building will be on skids, it can be moved without being destroyed. He said there was no risk to any utility company by placing the building five feet over the easement and asked for approval of the revocable permit.

Ewing-Holmstrom said this is in Ward 4 and she received an e-mail from Evans about it. She asked Evans if it would be more practical to move the building where it does not encroach on the utility easement. Evans said it would be more practical but he did not want to get the building too close to his rather expensive house, it would take away from it. Evans said he could make the building a little smaller and put it a little further out but it would encroach the last three feet and he was asking for five. He said there is a total of 37 feet available at the back of his lot, the 25 foot easement plus a 12 foot drainage area. Evans said the only lines the building would set over right now are two PSO lines, the main line and feeder line to his house, but it would not set over any of the others, although it would be close to some of them.

Hanna asked if there was a gas line in the easement and a Reliant representative in the audience indicated there was no gas line currently in the easement. Evans said the gas line is 50 feet away.

Baxter asked why Evans could not place the building in the other corner of the yard where it would still be the same distance from the house but it would not be on any utility easement. Evans said he has a very nice view of some very large trees and did not want his view ruined, and in the selected location, it will hardly be visible from inside the house.

Moeller said if we go along with not putting anything in the easement, will we allow residents to continue to fence the easements in, and have flower beds and sprinkler systems. Bigham said the code allows the property owner the option to build rear or side yard fences on the utility easement line or on the property line, not including stone or masonry fences. Moeller said it appeared that PSO had not stayed within the easement, according to the drawing. Bigham said that is a service line that goes to the house.

Shanklin said Council has done this for years, the permits are revocable so the utility crews can get in and either Evans or the utility crews will move the building, which is on skids, so he supported it.

Ewing-Holmstrom said she could not support it because of the efforts to work with utility companies to clean up alleys and easements and it is bad timing for Mr. Evans. She said if this is allowed, after meeting with several groups trying to clean up Lawton and the alleys, others would come in with the same issue. Evans said everything

should stand on its own issues, and a rule is not a law and there can be exceptions. He said he never accepted the excuse about doing it for one and not another and that rational decisions can be made about things. He said the PSO line should have gone directly across the back yard and up just like the cablevision line did.

Shanklin said he agreed about cleaning up the easements but this is not that type of an easement; this is a movable building and Evans is a citizen of Lawton who wants to enhance his property.

MOVED by Shanklin, SECOND by Devine, to give him a revocable permit to allow him to build the building where he has it located.

Moeller asked is it still in force that should ARKLA have to do something that they have the right to move a fence or anything in an easement and not put it back. Vincent said yes, it is at the owner's expense but certain companies have policies and he would not comment on them.

VOTE ON MOTION: AYE: Shanklin, Moeller, Haywood, Devine. NAY: Ewing-Holmstrom, Baxter, Hanna. MOTION CARRIED.

19. Consider the following damage claim recommended for denial: Chad and Tisha Rother. Exhibits: Original Claims Memorandum/Recommendation; Supplemental Claims Memo/Recommendation.

Vincent said the claim was previously tabled and additional information was provided in the folder.

Chad Rother, 811 SW Chaucer Drive, said his wife would distribute pictures he had taken, and his concern was that the City's drainage ditch behind his house was not adequate to carry the flow of water and was allowing water in his back yard and also in his neighbor's yard, causing water damage. Rother said the pictures show the result of inch rain in five minutes on August 12 in the afternoon. He said Moeller and Shanklin came to his house to look at the situation, and he was not as concerned about the money as he was about the ditch being fixed. Rother said he would rather the Council take the money he would have been awarded and use it to fix the ditch because that \$2,500 will not do him any good if this keeps happening and it would cost him more money than that, so as far as voting on the tort claim, if Council denies it, that is fine but he would rather have the City fix the ditch and that was all he was asking.

Ewing-Holmstrom asked where Rother's house was located in the picture. Rother said the ditch starts two houses up from his house, water is missing the ditch, flowing into the back yard and getting into his house.

Moeller said for the amount of water coming off that field, she did not see any way that the canal could safely carry the water to the south where it should be. She said she understood the neighborhood was designed to take run off water through the yards to the front street, which she did not think that was an adequate drainage program and it did not make sense to channel water through people's yards to the street. Moeller said only a small portion of the canal is concrete, it is shallow and it ends just to the south of the housing addition, and there will be more houses built in that area. She said she would like to see the City make repairs and that she and Mr. Rother knew it could not happen right away, but it should be put on high priority to repair that drainage so it will carry the water.

Baxter said if it was built right and the yard was built right where there was a V shaped to the side of the yard where the water comes in the back yard, it would go in between the houses and out to the front. He said it is that way at his house and it works like it should. Baxter said if the guy would not have brought all of that dirt in and built the mud ledge to the bottom of his brick, he would not be having these problems.

Rother said the previous owner said there was not a ditch there when she bought the house and she was not sure if the City or the developer dug a five foot deep ditch, and poured concrete a year later. Rother said he did not put the dirt up there. Baxter said the ditch is not the problem, it does not matter if there is a ditch there or not, it is the way the water is being channeled. Rother said the water is missing the ditch and coming through the back yard.

Shanklin said the ditch plays out five houses to the south of this property into land that will be developed. He said that land contains rip rap, weeds and trees causing water to back up, go behind the channel, down through four yards and to this house. Shanklin said Rother sustained damages that the City should pay for, and City drainage crews should clean the area so water cannot back up, and until that is done, this house will still flood.

Ewing-Holmstrom said the legal opinion mentions that a storage shed was constructed, and asked how that may or may not affect this situation. Vincent said when they were first out there taking pictures, there was a chain link fence hanging down under the storage shed that was causing a damming action, also, if the water gets high enough in the ditch, and there is about a foot of freeboard under there from the top of the concrete to the bottom of the shed, but if it gets high enough, it acts as a dam and water would have to go around the shed to get out.

Vincent said Ihler had advised that this is a ten-year concrete ditch; the original design by the developer had dirt side swales increasing it to the 100 year capacity, and the swales are visible to the south. Mayor Powell said the

shed sits up over the ditch about a foot, it is not serving as a dam and the base of the house is higher than the shed so there is no point there. Vincent said if you go on south, you will see the actual original construction design of the ditch and the swale. Mayor Powell said they changed this ditch, if it is different now than it was prior to then, who changed it. Vincent said he could not answer that question.

Baxter said if the City put the concrete in the ditch, he would agree there may be some liability, but he did not think the City did it because Rother said a previous home owner did that. Rother said the concrete ditch is solid and the home owner put a concrete barrier on the east side of the ditch to keep the water from getting into the yard to keep it out of the house after a hard rain. Vincent said he understood the concrete ditch was built by the developer of the subdivision. Baxter asked how that makes the City liable. Mayor Powell said the City approved it. Vincent said the City cannot be held liable by law.

Moeller said another owner may not know about dirt being put in certain places but the water did not go through weep holes, it went through the back door. She said her understanding from Mr. Rother was that it was not the money or the claim but he wanted the ditch to be fixed. Rother said if the City will fix the ditch, he could care less about the money.

MOVED by Moeller, SECOND by Devine, to deny the claim but put it as a high priority to repair the drainage ditch so none of the houses along that area take on excess water that drains off of the field.

Shanklin said water comes to the inside of this ditch where the concrete is; Rother wants to be a nice guy but he has damages and is entitled to compensation. Moeller said if we pay the damages and do not fix the ditch, we will have the same problem. Shanklin said we still have to fix the ditch.

SUBSTITUTE MOTION by Shanklin, SECOND by Haywood, to pay the young man and fix the ditch and adopt the resolution for \$2,530.

Vincent said the Public Works Director had asked that if this is approved, a condition of approval be included for Rother to remove the shed from the drainage easement. Shanklin said no, he would not do that. Mayor Powell said Council approved one in the last item so how can they tell Rother he cannot do the same. Rother said Section 20-1-101 of the City Code says anything built on easements prior to December 14, 1994 is grandfathered in. Shanklin said the shed is not bothering any of the water.

Vincent said the other part of Ihler's request is that Rother grade his property to meet the construction design to have swales on both sides. Shanklin said Rother will do that but water will still come through his property. Shanklin said his motion was to pay the claim and the City take care of it as soon as possible.

VOTE ON SUBSTITUTE MOTION: AYE: Shanklin, Moeller, Haywood. NAY: Baxter, Hanna, Devine, Ewing-Holmstrom. SUBSTITUTE MOTION FAILED.

Baker said if the original motion is approved, City staff will do everything they can but he did not know if he could guarantee that it will totally eliminate the problem. Moeller said she was not talking about a quick fix, and if it takes a year, we should do it properly once and for all.

Ewing-Holmstrom said the picture in the agenda book shows a storage shed setting on top of the City's drainage ditch, it is still there, and because of what this gentleman just mentioned, we will leave it there. Mayor Powell said it is not interfering with anything and it is just like the revocable permit the man was given before. Ewing-Holmstrom said it is pretty unsightly. Baxter asked if the motion was to leave the shed there or make him take it down, and last time Rother offered to take the shed away. Rother said that was before he found this ordinance. Ewing-Holmstrom said this is Rother's storage shed on City property.

Mayor Powell said the motion on the floor is to deny the claim and fix the problem. Baxter said it is also to leave the shed. Mayor Powell said the motion did not mention the shed; it was to deny the claim and fix the problem. Shanklin said we owe the young man his damages.

Mike Johnson, City Engineer, asked if Council was considering requiring the drainage swales between houses to be done also. Shanklin said yes. Mayor Powell said Rother had agreed to do that.

Johnson said either the developer did not build this according to the construction plat and he filled in between the homes, or at some point in time, the home owners filled in between the homes. He said to fully solve the problem and prevent any water from getting in any of those homes, the swales between the houses should be there. Mayor Powell asked if it would not be highly unusual for every home owner to fill all of their yards that high. Johnson said not all of them have. Devine asked that the roll be called.

VOTE ON MOTION: AYE: Moeller, Haywood, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: Baxter. MOTION CARRIED.

BUSINESS ITEMS:

20. Hold a public hearing and adopt resolutions declaring the structures at: 1417 NW Taft Avenue, 1204 NW Williams Avenue and 1210 NW Williams Avenue to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety; authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate.

Angie Alltizer, Neighborhood Services, distributed photos of the three properties listed.

1417 NW Taft: Alltizer said there are two structures on the property. A fire occurred on October 24, 2001, utilities were terminated in November 1999 and the house was vacant.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Hanna, SECOND by Baxter, to declare 1417 Taft dilapidated and dangerous, causing a blight to the community, and to adopt the resolution. AYE: Haywood, Baxter, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller. NAY: None. MOTION CARRIED.

(Title) Resolution No. 02-165

A resolution declaring a certain structure a dilapidated public nuisance, detrimental to the health, benefit, and welfare of the community; ordering the dilapidated structure be brought to habitable standards or demolished and removed; and authorizing the City Attorney to initiate legal action in Comanche County District Court to abate such nuisance.

Location: 1417 NW Taft, aka 2101-2103 NW 15th Street, Lawton Heights Addition, Block 44, all of Lot 17 & W 14'6" of Lot 18, Comanche County, Lawton, Oklahoma.

Owner: Secretary of Veterans Affairs; Mortgage Holders: Chemical Mortgage Company, Chemical Bank, Alan Mortgage Company, Inc., Briarcroft Service Corporation and Countrywide.

1204 NW Williams: Alltizer said this is a stucco structure; utilities were terminated in February 2000. Numerous code violations have occurred at this residence in the past two to three years. The City has secured the structure, mowed the yard, and re-secured the structure, having spent probably between \$300 and \$400 in mowing and securing. The property owner contacted Manny Cruz and requested this be tabled to the next meeting so they could attend. Hanna said he wanted to take care of it tonight.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

Hanna said the building has been vacant for a couple of years and no one wants to do anything with it.

MOVED by Hanna, SECOND by Moeller, to declare 1204 NW Williams to be dilapidated and dangerous and causing a blight to the community and to adopt the resolution. AYE: Baxter, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

(Title) Resolution No. 02-166

A resolution declaring a certain structure a dilapidated public nuisance, detrimental to the health, benefit, and welfare of the community; ordering the dilapidated structure be brought to habitable standards or demolished and removed; and authorizing the City Attorney to initiate legal action in Comanche County District Court to abate such nuisance.

Location: 1204 NW Williams, Ensley's Addition, Block 39, Lot 2, Comanche County, Lawton, Oklahoma.

Owner: Jason L. & Margo Lubbers; Mortgage Holders: None.

1210 NW Williams: Alltizer said the structure is stucco and a record could not be found of when it last had utility service; it has been vacant for quite some time. It was secured but we are trying to clean up zone one from a law enforcement and code enforcement perspective.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Hanna, SECOND by Baxter, to declare 1210 NW Williams to be dilapidated and dangerous, causing a blight to the community, and to adopt the resolution. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

(Title) Resolution No. 02-167

A resolution declaring a certain structure a dilapidated public nuisance, detrimental to the health, benefit, and welfare of the community; ordering the dilapidated structure be brought to habitable standards or demolished and removed; and authorizing the City Attorney to initiate legal action in Comanche County District Court to abate such nuisance.

Location: 1210 NW Williams, Ensley's Addition, Block 39, Lot 5, Comanche County, Lawton, Oklahoma.
Owner: Michael Dewayne Moon; Mortgage Holder: First Federal Svys

21. Consider approving the placement of photos on Cable Channel #2 for the purpose of locating persons with felony warrants. Exhibits: None.

Acting Police Chief Harold Thorne said this is a national program and it is offered in other cities. In Comanche County there are over 3,000 outstanding felony warrants. This program will be an excellent tool to assist in clearing up many of those warrants as it will be readily accessible on television. Officer Poindexter will administer the program. Thorne presented the first four photos that will be run if this is approved; they will run for two weeks and be monitored daily by Poindexter for accuracy and if an arrest occurs, it will be marked "captured" then more photos will be added. The Sheriff supports the program. A display was shown as to what this would look like, and it contains information about Crimestoppers.

Hanna asked if the City would face any legal ramifications in a program such as this. Vincent said several meetings had been held with Crimestoppers, the Police Chief, and members of the Legal Department, and the legal staff has made appropriate changes to reduce the City's liability. Ewing-Holmstrom asked if other cities do this. Thorne said yes.

MOVED by Hanna, SECOND by Devine, to approve the program. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood. NAY: None. OUT: Baxter. MOTION CARRIED.

22. Consider approving recommendation to officially name the area in Elmer Thomas Park bounded by the Museum of the Great Plains, the Percussive Arts Headquarters and Museum, and the McMahon Auditorium THE CENTENNIAL PLAZA. Exhibits: Letter. ***This item was not considered.

23. Consider and take appropriate action to approve a no charge for an individual patron admission fee and establish a group use fee for the McMahon Skatepark and also to allow an increase in fees for rescheduling games for Youth Baseball/Softball and Adult Softball; and to adopt a resolution amending Appendix A, 19-702 and 19-709, Schedule of Fees and Charges. Exhibits: Resolution No. 02-168.

Kim Shahan, Parks & Recreation Director, said the recommendation regarding the McMahon Skatepark is for free admission for individuals on a daily basis, and \$30 per hour, with a two-hour minimum, for groups using the facility during non-scheduled hours for private parties. The resolution also increases fees for rescheduling of games after the schedules have been set because it creates major conflicts in schedules.

Devine asked if that same penalty could be applied to the City on school groups. He said his granddaughter was scheduled to play in a grade school league team and two games were moved without the parents being notified and it was done so others could play instead of them. Shahan said if City staff is changing the schedules, he would see that such things did not happen again.

MOVED by Devine, SECOND by Haywood, to approve Resolution No. 02-168. AYE: Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter. NAY: None. OUT: Hanna. MOTION CARRIED.

(Title) Resolution No. 02-168

A resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, amending the fees for recreation and providing an effective date.

24. Consider an ordinance amending Section 22-1-104, Article 1, Chapter 22, Lawton City Code, 1995, pertaining to payment of utility bills, providing for severability, and declaring an emergency. Exhibits: Ordinance No. 02-38.

MOVED by Shanklin, SECOND by Moeller, to adopt Ordinance No. 02-38, waive reading of the ordinance, reading the title only, and declaring an emergency.

Vincent said the ordinance provides for utility payments left in a drop box over night to be considered as the following day's business rather than the previous day's business for purposes of determining late fees. Baker said for payments received after 5 p.m., the clerks have to manually take off late fees and adjust the billing account, which takes a lot of time and may be one reason for having long lines. This should eliminate some unnecessary administrative work.

(Title read aloud) Ordinance No. 02-38

An ordinance pertaining to late fees and charges, amending Section 22-1-104, Article 1, Chapter 22, Lawton City Code, 1995, pertaining to payment of utility bills, providing for severability, and declaring an emergency.

VOTE ON MOTION: AYE: Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter, Hanna, Devine. NAY: None.

MOTION CARRIED.

ADDENDUM ITEMS:

1. Discuss the enforcement of the public nuisance provisions of Sections 102 and 103, Article 1, Chapter 15, Lawton City Code, 1995, and if necessary, take appropriate action. Exhibits: Copies of Sections 102 and 103, Article 1, Chapter 15, Lawton City Code, 1995.

Shanklin said we are trying to educate the public and those in business that may have an attraction for a nuisance, such as gatherings with boom boxes, loud noises and maybe even prostitution, that these people can be held liable to a certain degree for harboring or allowing unsavory people to inhabit their premises.

Chief Thorne said the Police Department was looking at this ordinance to assist in enforcement of crimes such as the keeping of a place for prostitution, and the burden may be on the police to prove that the activity is occurring. Thorne suggested an amendment to include residences that have a lot of vehicle or foot traffic, which all have seen, and that could be a valuable tool to law enforcement. Vincent said his office had been working with Lt. Akard on areas of prostitution; first there must be a conviction out of the facility, then we notify the owner and/or lessee of the illegal activity. He said there is a new state law regarding drug houses and Lawton's code mirrors that statute.

Baxter asked if it was correct that if a person was arrested in a house or a hotel room for prostitution or drugs, the second time the violation occurs, the home owner and/or the hotel owner can also be charged. Mayor Powell said if the owner was notified after the first occurrence. Baxter said surely they would be notified if someone had been arrested.

Shanklin asked if a person has to be found guilty before anything can be done. Vincent said if the property owner and the person occupying the property are different persons, that is what we are saying. Shanklin said he got rid of a crack house and no one was ever charged or found guilty, but there were six to eight cars per hour during the day at the house and the officers came on several occasions but we never talk about drugs. He said there was a crack house on 3rd Street for a year and a half, and he knew what these people were doing, as did the police, without having to have a conviction and the owners should be notified that they have undesirable characters coming and going on their property and then tell them that if it continues, and if it is drug related and we do get a conviction, we will hold them responsible too. He asked if that can be done. Mayor Powell said the attorney said you can do that. Shanklin said we want the people to understand that they may have rentals but they are responsible for who is in there. Vincent said staff was also looking at ordinances from other cities on "anti-cruising" violations, where cars driving by the same particular spot within a given period of time, such as cruising the street looking for drugs or prostitution would be a violation, and that will be brought for Council consideration.

Shanklin said the car wash owners also need to be held responsible for those who have the loud music on their business premises; they can put up a chain or call the police and run them off. He said there were 151 boom box tickets written in the last 34 days and that was commendable.

Thorne said if the violation cannot be enforced against a drug house or a house of prostitution, it may be possible to consider the violation simply a nuisance. He said the ordinance references things such as trash, loud music and things like that as being a nuisance to the citizens. Thorne suggested they pursue some of the things identified, such as the constant foot traffic, the vehicles coming and going, activity which is not consistent with the neighborhood, where they could address that as a nuisance by itself. Shanklin said he thought they could. Mayor Powell said the Chief was in charge and to do it.

Ewing-Holmstrom asked if this ordinance deals with the problems at night in Elmer Thomas Park. Thorne said they cannot restrict the public from using the public areas but when violations occur, the police enforce that. Ewing-Holmstrom asked if there were still problems with drinking and Thorne said not as bad and it is kind of a seasonal problem.

Haywood asked what the curfew was and Thorne said he thought it was 11 p.m. but would need to look. Haywood asked how long it takes for the police to check out a drug house if someone turns it in. Thorne said if they have to do it through a narcotics investigations, it can take some time but they are actively pursuing other ways to close those residences using whatever ordinances may apply, not necessarily the narcotics because making cases or arrests or how they know that drugs are there is difficult. Haywood said there are many problems north of Cache Road and he did not want them to come back into his area. Thorne said they had noticed some displacement of the activity and they are aggressively addressing it at those locations, and their plan is to not let that activity have a foot hold anywhere.

Shanklin asked what the fines are for nuisance violations. Vincent said he thought most would be the general provision of not more than \$500 and/or 60 days in jail, but for noise the maximum fine is \$100 and/or 30 days in jail. Thorne said the curfew time is midnight.

2. Consider approving the purchase of two parcels of land for the Flower Mound Road (Lee - Gore) Project, authorize the Mayor and City Clerk to execute the Warranty Deeds and authorize payments for the same. Exhibits: None.

MOVED by Devine, SECOND by Baxter, to approve the purchase. AYE: Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter, Hanna. NAY: None. MOTION CARRIED.

3. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending termination arbitration titled International Union of Police Associations (IUPA), Local 24 & Diane Jones vs. City of Lawton, FMCS #02-06313-8, and take necessary action, if necessary, in open session. Exhibits: None.

Vincent said a settlement offer was received and he recommended it be denied. He said if Council desired to hold discussion, it would be appropriate to enter into executive session.

MOVED by Hanna, SECOND by Baxter, to deny the settlement offer. AYE: Shanklin, Moeller, Haywood, Baxter, Hanna, Devine. NAY: None. ABSTAIN: Ewing-Holmstrom. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Col. Steuber said Fort Sill is honored to participate in the commemoration ceremony tomorrow. General Maples is at the Pentagon doing some work on the future of the Field Artillery in the Army, and General Raulston, the Deputy Commanding General, will be representing Fort Sill, along with the 77th Army Band and the Salute Batteries, so they hope to make a great contribution to the ceremony. The ceremony has been designated as a place of duty for all soldiers so commanders can release soldiers on a mission basis.

Col. Steuber reported that Lt. General Calvin, the Deputy Commanding General of TRADOC, will be looking at the initial entry training at Fort Sill and seeing what he can do to help Fort Sill do a better job of that, and we are hoping that spells resources, so we will see him within the next week and a half.

Baxter said the issue of east side annexation was left hanging and suggested it be on the September 24 agenda so the issue could be put to rest. He said he would not support the east side annexation, but knew that a couple of members did, and they should agenda the item. Mayor Powell said he received calls on this daily and he did not have three members to meet with the residents.

Shanklin said he did not feel that City equipment should be used to respond to fires outside the city limits on county roads where there is a chance that they can be destroyed or banged up. He said if Council agreed, he would agenda an item to stop having outside fire contracts because we cannot afford to replace a \$280,000 apparatus because the commissioners are not going to take care of roads. He said every time you buy a gallon of gas, four cents of that price goes to a fund that is split at the court house which we get none of, they take it and spend it any way they so desire, and they do, and he did not know whether they were in violation of the open meeting law.

Shanklin said the Flower Mound Project has been in the works for 17 years and it will provide a loop around east and west Lawton. Lawton got in line for that \$6 million and if we get out of line, we will never get it back. 82nd Street was recently done, it has just as many houses backing up to it, and none of the residents complained about the five lane road. Shanklin said the next funding will be for the Rogers Lane part, and the project will not disturb the residents. He said in Plano, Texas, there are \$300,000 houses on six or seven lane roads and he could not see us being worried that these folks will be harmed because they will not be. He said he had not heard of anyone being upset over Rogers Lane or 82nd, and we will not tear anyone's fence down because the right of way is there.

Shanklin said he never responds to these things in the paper but this one last week where the individual intimated that he probably could have been from Chicago, and we know what a sordid place Chicago is in politics and they stole the election in 1960, threw all of the ballot boxes into the river, and the man is very proud of that area and made a remark about our colleague, Mrs. Moeller, saying "all show and no go" and he did not appreciate it. Shanklin said he did not have a clue what the man was talking about, but that is inappropriate and he did not mind telling him that right now if he is listening and he seems to be because he said this was the biggest clown place in the nation, but he guessed the man forgot where he came from.

Mayor Powell said he would like to respond to that briefly as the man said something about the Wal-Mart being on Lee Boulevard but that would make it effect the Mayor's business. He said they should not be talking about the Mayor's place in the newspaper; it is personal business and affects his family and he did not like it. He said if the Wal-Mart were to be put there, it would increase his traffic about 90% which would make it a lot better for Pappy's Corner, so he is so far off base on that item it is unbelievable, and he did not understand it either about Moeller at all.

Moeller said she did not understand what the man was talking about either. She said on a lighter note, she would encourage everyone to go to the ceremony at Elmer Thomas Park, and following that, there will be an event on the

City Hall steps with the Sweet Adelines. There are 201 choruses around the world that will be singing at 12 Noon and one will be here. Free flags will be provided by Crossroads Coldwell Banker.

Ewing-Holmstrom said she was exhausted, the Bob Shanklin show wore her out and she loved him but could not keep up. She said regarding the Flower Mound project, there will be a Ward 4 meeting on September 19 at 7 p.m. at MacArthur Junior High School Auditorium, and all of the Council are invited. She said it is an open forum for those who want to be heard about the Flower Mound expansion from Gore to Rogers Lane. Ewing-Holmstrom said some information was put out incorrectly stating that she was against this project but that she had not come out publicly either against or for the Flower Mound expansion so she wanted to get that cleared on the record right away. She said anyone who is interested in looking at the design is invited, there will be engineers present and ODOT representatives. She said those who can answer questions about the history of the project could try to attend, please.

Hanna encouraged attendance at the upcoming International Festival, which will have good food, good shows and there will be no admission charge.

Baker introduced Rick Endicott as the City's Finance Director. Mr. Endicott was previously the City's Internal Auditor and he will be of great value to the City as the Director of Finance.

Mayor Powell thanked Hanna and Bass for hosting a town meeting and the staff who were there. He said it was a strong, progressive meeting and it showed support for that area.

Mayor Powell said regarding the annexation, the Council said they wanted three persons but only Bass and Devine agreed to serve. He asked if there was a third or if Council wanted the committee. Devine said he will put something on the agenda. Mayor Powell asked if Devine was saying we do not need a third person on this and we can forget that. Devine said probably so. Mayor Powell said we will let that go.

Mayor Powell said at 8:45 a.m. near the Museum in the morning, for the first time history, Fort Sill will come into the city for a commemoration and we are proud of that. He commended those involved in preparing for the ceremony. He said the Sweet Adelines, Cameron, various churches and Native American groups are also having events. Mayor Powell said we have gone to the second highest alert there is in the United States, and he had spoken with the Chief and the City Manager and we do not have anything official from the FBI or anything like this whatsoever and it is a precautionary measure as far as we know right now and asked Col. Steuber if he knew of anything else. Col. Steuber said he thought the Mayor had hit it right on the head, and they have gone through all the information channels to see if there is anything of a threat nature out there and they had turned up nothing and that is why they will be at the commemoration event. Mayor Powell said the fly over probably will not happen due to the alert and we understand that completely.

Raymond McAlister spoke about the County Fair and events at the Great Plains Coliseum.

There being no further business to consider, the meeting adjourned at 7:50 upon motion, second and roll call vote.